

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

Civil Action No. 04CV10604 NG

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MASSTECH COMMUNICATIONS, INC.,
Plaintiff

DISTRICT COURT
DISTRICT OF MASS.

v.

ROBERT CURRAN, KEVIN CURRAN, and
THE MARKETPLACE GROUP
Defendant

Respectfully submitted,

ROBERT CURRAN,
By his attorney

ANSWER & COUNTERCLAIM

The Defendants hereby file their Answer & Counterclaim to the Amended Complaint.

1. admit
2. admit
3. denied
4. admit
5. denied
6. admit
7. denied
8. denied
9. denied
10. denied
11. denied

12. denied

13. denied

14. denied

15. denied

16. denied

17. denied

18. denied

19. denied

20. denied

21. denied

22. denied

23. denied

24. denied

25. denied

26. denied

27. denied

28. admit

29. denied

30. denied

31. denied

32. denied

33. denied

34. denied

35. denied

36. denied

37. denied

38. denied

39. denied

40. denied

41. denied

42. denied

43. admit

44. denied

45. denied

46. denied

47. denied

48. denied

49. denied

50. denied

51. denied

52. denied

53. denied

54. denied

55. denied

56. denied

57. denied

58. denied

59. denied

60. denied

61. denied

62. denied

63. denied

64. denied

65. denied

66. denied

67. denied

AFFIRMATIVE DEFENSES

Unclean hands

Laches and Estoppel

Failure to state a claim for which relief may be granted

Failure to show or make offer of proof on any monetary damages or lost sales

Claims for interest, costs and attorney's fees are not recoverable by Contract or Statute

COUNTERCLAIM

COUNT I ABUSE OF PROCESS

1. The Defendants/Plaintiffs in Counterclaim reallege the parties and allegations as put forth by the Plaintiffs/Defendants in Counterclaim.
2. These claims have been advanced in bad faith and under federal jurisdiction in an attempt to harass and intimidate the Defendants.
3. These claims rest within the jurisdiction of the Superior or District Courts and no monetary damages have been shown nor can they be.

4. There was no non compete agreement of any sort that would allow the Plaintiffs from precluding the Defendants to compete with them in the open marketplace.

5. Plaintiffs are aware by Opposition, Affidavit and Testimony that no sales resulted from any efforts of the Defendants and that by Defendants own efforts and from review of other database lists that are readily available Defendants may have been able to assemble their own customer base.

COUNT II MALICIOUS PROSECUTION

6. The Defendants reallege paragraphs 1 thru 5 above.

7. These claims in Plaintiffs complaint are without proper cause or made without proper knowledge of the facts or a true investigation of those facts.

8. In bringing these claims in federal court where they more properly should have been made in Superior or District Court they were made with malice against each of the Defendants.

9. Defendants have already provided ample evidence no sales were garnered by any activity nor was any damage, monetary or otherwise, suffered by the Plaintiffs, yet Plaintiffs have elected to proceed.

COUNT III VIOLATIONS OF CHAPTER 93A

10. The Defendants reallege paragraphs 1 thru 9 herein.

11. If Plaintiffs choose to proceed they have done so in bad faith.

12. Plaintiffs can show no set of damages or harm they have suffered and Defendants have been forced to incur unnecessary time and expenses in litigating these matters.

WHEREFORE, the Defendants seek damages for abuse of process, malicious prosecution and violations of Chapter 93A for advancing these claims in bad faith and seek multiple damages along with their attorney's fees, interest and costs.

DEFENDANTS/PLAINTIFFS IN COUNTERCLAIM DEMAND TRIAL BY JURY

Respectfully submitted,

ROBERT CURRAN, KEVIN CURRAN, and
THE MARKETPLACE GROUP

By their attorneys,

A handwritten signature in cursive script, appearing to read "Gary M. Lee".

Gary M. Lee BBO #552108
LEE LAW OFFICES
121 Central Street
Norwood, MA 02062
(781) 762-6833

CERTIFICATE OF SERVICE

I, Gary M. Lee, Esq., LEE LAW OFFICES, Certify that I have served a copy of the foregoing upon all attorneys or parties of record by first class mail/fax/hand this day.



Gary M. Lee

Dated:

